SENATE BILL No. 381

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-4-3; IC 33-5-2; IC 33-10.1-2-9; IC 33-10.5-7; IC 33-11.6-4-6.

Synopsis: Small claims jurisdiction. Specifies that the small claims jurisdiction of the circuit courts, superior courts, and county courts includes cases where the amount in controversy is not more than \$6,000. Allows a corporation to appear in a small claims proceeding without counsel.

Effective: July 1, 2001.

Kenley

January 18, 2001, read first time and referred to Committee on Judiciary.





First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 381

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1	SECTION 1. IC 33-4-3-7, AS AMENDED BY P.L.180-1999,
2	SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3	JULY 1, 2001]: Sec. 7. The small claims docket has jurisdiction over
4	the following:
5	(1) Civil actions in which the amount sought or value of the
6	property sought to be recovered is not more than three six
7	thousand dollars (\$3,000). (\$6,000). The plaintiff in a statement
8	of claim or the defendant in a counterclaim may waive the excess
9	of any claim that exceeds three six thousand dollars (\$3,000)
10	(\$6,000) in order to bring it within the jurisdiction of the small
11	claims docket.

- (2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed three six thousand dollars (\$3,000). (\$6,000).
- (3) Emergency possessory actions between a landlord and tenant under IC 32-7-9.

17 SECTION 2. IC 33-4-3-8 IS AMENDED TO READ AS FOLLOWS



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1	[EFFECTIVE JULY 1, 2001]: Sec. 8. (a) The exceptions provided in
2	this section to formal practice and procedure apply to all cases on the
3	small claims docket.
4	(b) A defendant is deemed to have complied with the statute and
5	rule requiring the filing of an answer upon entering an appearance
6	personally or by attorney. The appearance constitutes a general denial
7	and preserves all defenses and compulsory counterclaims, which may
8	then be presented at the trial of the cause.
9	(c) If, at the trial of the cause, the court determines:
10	(1) that the complaint is so vague or ambiguous that the defendant
11	was unable to determine the nature of plaintiffs' claim; or
12	(2) that the plaintiff is surprised by a defense or compulsory
13	counterclaim raised by the defendant that the plaintiff could not
14	reasonably have anticipated;
15	the court shall grant a continuance.
16	(d) The trial shall be conducted informally, with the sole objective
17	of dispensing speedy justice between the parties according to the rules
18	of substantive law. The trial is not bound by the statutes or rules
19	governing practice, procedure, pleadings, or evidence except for
20	provisions relating to privileged communications and offers of
21	compromise.
22	(e) A corporation in a proceeding under this chapter is not
23	required to appear by counsel.
23 24	required to appear by counsel. SECTION 3. IC 33-5-2-4, AS AMENDED BY P.L.180-1999,
23 24 25	required to appear by counsel. SECTION 3. IC 33-5-2-4, AS AMENDED BY P.L.180-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 24 25 26	required to appear by counsel. SECTION 3. IC 33-5-2-4, AS AMENDED BY P.L.180-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Except as provided in subsection (b), the
23 24 25 26 27	required to appear by counsel. SECTION 3. IC 33-5-2-4, AS AMENDED BY P.L.180-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Except as provided in subsection (b), the small claims docket has jurisdiction over the following:
23 24 25 26 27 28	required to appear by counsel. SECTION 3. IC 33-5-2-4, AS AMENDED BY P.L.180-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Except as provided in subsection (b), the small claims docket has jurisdiction over the following: (1) Civil actions in which the amount sought or value of the
23 24 25 26 27 28 29	required to appear by counsel. SECTION 3. IC 33-5-2-4, AS AMENDED BY P.L.180-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Except as provided in subsection (b), the small claims docket has jurisdiction over the following: (1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than three six
23 24 25 26 27 28 29 30	required to appear by counsel. SECTION 3. IC 33-5-2-4, AS AMENDED BY P.L.180-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Except as provided in subsection (b), the small claims docket has jurisdiction over the following: (1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than three six thousand dollars (\$3,000). (\$6,000). The plaintiff in a statement
23 24 25 26 27 28 29 30 31	required to appear by counsel. SECTION 3. IC 33-5-2-4, AS AMENDED BY P.L.180-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Except as provided in subsection (b), the small claims docket has jurisdiction over the following: (1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than three six thousand dollars (\$3,000). (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess
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23 24 25 26 27 28 29 30 31 32 33 34 35	required to appear by counsel. SECTION 3. IC 33-5-2-4, AS AMENDED BY P.L.180-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Except as provided in subsection (b), the small claims docket has jurisdiction over the following: (1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than three six thousand dollars (\$3,000). (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds three six thousand dollars (\$3,000) (\$6,000) in order to bring it within the jurisdiction of the small claims docket. (2) Possessory actions between landlord and tenant in which the
23 24 25 26 27 28 29 30 31 32 33 34 35 36	required to appear by counsel. SECTION 3. IC 33-5-2-4, AS AMENDED BY P.L.180-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Except as provided in subsection (b), the small claims docket has jurisdiction over the following: (1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than three six thousand dollars (\$3,000). (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds three six thousand dollars (\$3,000) (\$6,000) in order to bring it within the jurisdiction of the small claims docket. (2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed three six
23 24 25 26 27 28 29 30 31 32 33 34 35 36 37	required to appear by counsel. SECTION 3. IC 33-5-2-4, AS AMENDED BY P.L.180-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Except as provided in subsection (b), the small claims docket has jurisdiction over the following: (1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than three six thousand dollars (\$3,000). (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds three six thousand dollars (\$3,000) (\$6,000) in order to bring it within the jurisdiction of the small claims docket. (2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed three six thousand dollars (\$3,000). (\$6,000).
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23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40	required to appear by counsel. SECTION 3. IC 33-5-2-4, AS AMENDED BY P.L.180-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Except as provided in subsection (b), the small claims docket has jurisdiction over the following: (1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than three six thousand dollars (\$3,000). (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds three six thousand dollars (\$3,000) (\$6,000) in order to bring it within the jurisdiction of the small claims docket. (2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed three six thousand dollars (\$3,000). (\$6,000). (3) Emergency possessory actions between a landlord and tenant under IC 32-7-9. (b) This subsection applies to a county having a population of more
23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39	required to appear by counsel. SECTION 3. IC 33-5-2-4, AS AMENDED BY P.L.180-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Except as provided in subsection (b), the small claims docket has jurisdiction over the following: (1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than three six thousand dollars (\$3,000). (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds three six thousand dollars (\$3,000) (\$6,000) in order to bring it within the jurisdiction of the small claims docket. (2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed three six thousand dollars (\$3,000). (3) Emergency possessory actions between a landlord and tenant under IC 32-7-9.



1	following:
2	(1) Civil actions in which the amount sought or value of the
3	property sought to be recovered is not more than six thousand
4	dollars (\$6,000). The plaintiff in a statement of claim or the
5	defendant in a counterclaim may waive the excess of any claim
6	that exceeds six thousand dollars (\$6,000) in order to bring it
7	within the jurisdiction of the small claims docket.
8	(2) Possessory actions between landlord and tenant in which the
9	rent due at the time the action is filed does not exceed six
10	thousand dollars (\$6,000).
11	(3) Emergency possessory actions between a landlord and tenant
12	under IC 32-7-9.
13	SECTION 4. IC 33-5-2-5 IS AMENDED TO READ AS FOLLOWS
14	[EFFECTIVE JULY 1, 2001]: Sec. 5. (a) The exceptions provided in
15	this section to formal practice and procedure apply to all cases on the
16	small claims docket.
17	(b) A defendant is deemed to have complied with the statute and
18	rule requiring the filing of an answer upon entering an appearance
19	personally or by attorney. The appearance constitutes a general denial
20	and preserves all defenses and compulsory counterclaims, which may
21	then be presented at the trial of the cause.
22	(c) If, at the trial of the cause, the court determines:
23	(1) that the complaint is so vague or ambiguous that the defendant
24	was unable to determine the nature of plaintiffs' claim; or
25	(2) that the plaintiff is surprised by a defense or compulsory
26	counterclaim raised by the defendant that the plaintiff could not
27	reasonably have anticipated;
28	the court shall grant a continuance.
29	(d) The trial shall be conducted informally, with the sole objective
30	of dispensing speedy justice between the parties according to the rules
31	of substantive law. The trial is not bound by the statutes or rules
32	governing practice, procedure, pleadings, or evidence except for
33	provisions relating to privileged communications and offers of
34	compromise.
35	(e) A corporation in a proceeding under this chapter is not
36	required to appear by counsel.
37	SECTION 5. IC 33-10.1-2-9 IS ADDED TO THE INDIANA CODE
38	AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
39	1, 2001]: Sec. 9. A corporation in a proceeding under this chapter
40	is not required to appear by counsel.
41	SECTION 6. IC 33-10.5-7-1, AS AMENDED BY P.L.180-1999,
42	SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1	JULY 1, 2001]: Sec. 1. Each judge of the county court shall maintain
2	the following dockets:
3	(1) An offenses and violations docket.
4	(2) A small claims docket for the following:
5	(A) All cases where the amount sought or value of the property
6	sought to be recovered is three six thousand dollars (\$3,000)
7	(\$6,000) or less; the plaintiff in a statement of claim or the
8	defendant in a counterclaim may waive the excess of his claim
9	over three six thousand dollars (\$3,000) (\$6,000) to bring it
10	within the jurisdiction of the small claims docket.
11	(B) All possessory actions between landlord and tenant in
12	which the rent due at the time the action is filed does not
13	exceed three six thousand dollars (\$3,000).
14	(C) Emergency possessory actions between a landlord and
15	tenant under IC 32-7-9.
16	(3) A plenary docket for all other civil cases.
17	SECTION 7. IC 33-10.5-7-2 IS AMENDED TO READ AS
18	FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. Practice and
19	Procedure. Except as otherwise provided in this article the practice and
20	procedure in the county court shall be as provided by statute and
21	Indiana rules of procedure as adopted by the supreme court of Indiana.
22	However, in cases of the small claims docket there shall be the
23	following exceptions:
24	(a) Defendants shall be deemed to have complied with the statute
25	and rule requiring the filing of an answer upon entering their
26	appearance personally or by attorney. The appearance shall be deemed
27	a general denial and shall preserve all defenses and compulsory
28	counterclaims which may then be presented at the trial of the cause.
29	(b) If, at the trial of the cause, the court determines that the
30	complaint is so vague and ambiguous that the defendant was unable to
31	determine the nature of plaintiffs' claim, or that the plaintiff is surprised
32	by defense or compulsory counterclaim raised by the defendant that the
33	plaintiff could not reasonably have anticipated, the court shall grant a
34	continuance.
35	(c) The trial shall be informal, with the sole objective of dispensing
36	speedy justice between the parties according to the rules of substantive
37	law, and shall not be bound by the statutory provisions or rules of
38	practice, procedure, pleadings or evidence except provisions relating
39	to privileged communications and offers of compromise.
40	(d) A corporation in a proceeding under this chapter is not
41	required to appear by counsel.
42	SECTION 8. IC 33-11.6-4-6 IS AMENDED TO READ AS



1	FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) A simplified
2	procedure shall be established by rule to enable any person, including
3	the state of Indiana, to file the necessary papers and present the
4	person's case in court either to seek or to defend against a small claim
5	without consulting or being represented by an attorney.

(b) A corporation in a proceeding under this chapter is not required to appear by counsel.

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